



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,738	02/04/2002	Ramesh Keshavaraj	2102REI	4100

25280 7590 03/05/2003

MILLIKEN & COMPANY
920 MILLIKEN RD
PO BOX 1926
SPARTANBURG, SC 29304

EXAMINER

SINGH, ARTI R

ART UNIT	PAPER NUMBER
----------	--------------

1771

DATE MAILED: 03/05/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,738

Applicant(s)

KESHAVARAJ, RAMESH

Examiner

Ms. Arti R. Singh

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed on 11/13/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed on 11/13/02. Applicant's submission of a 1449, amendment to the title, specification, amendment to claims 1, 2, 10, 11, 14, 15, 18 and addition of new claims 21-43 have all been entered. In the "Remarks" portion of Applicant's response, Applicant states that Claims 1,2, 6, 7, 10, 11, 14, 15 and 18 have been amended. This is incorrect, as claims 6 and 7 have not been amended.
2. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following: The error thus corrected in this reissue application arose without any deceptive intent on the part of the applicant (patentee). 37 CFR 1.175(a)(2) requires, however, that the reissue declaration must state that "All errors being corrected in the reissue application up to the time of filing of the oath or declaration under this paragraph arose without any deceptive intention on the part of the applicant",
3. Claims 1-43 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1771

5. Claims 6 and 7 recites the limitation "said coating" in the first line of either claim.

There is insufficient antecedent basis for this limitation in the claim as the claims from which they depend from now recite, "adhered to" instead of "coated or laminated".

Claim Rejections - 35 USC § 102/103

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-43 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 5,989,660 to Moriwaki et al.

Moriwaki et al. discloses a fabric for use in an airbag comprising a fibrous substrate having adhered to it a covering layer made of a thermoplastic synthetic resin (abstract). The fibrous substrate or fabric used by patentee can be a woven, knitted or nonwoven fabric formed from polyamide fibers (column 2, lines 33-36). The fibers that make up the fabric have a denier of 200-500 (column 3, lines 8-10) and a cover factor of 1700 to 2500 denier (column 2, line 10). The synthetic thermoplastic resin that forms said covering layer is found to be equivalent to Applicant's film layer, and may be polyurethane, polyester, polyamide, acrylic polymer, polyethylene or polypropylene, of which polyurethane and polyester are the most preferred (column 3, lines 20-25). The average thickness of the synthetic thermoplastic film formed on the surface of the woven substrate is 10 μ or less, which when converted equals 0.393 mils, and thus meets the limitations which require the film thickness to be from 0.1 to about 3.5 mils thick.

With regards to the limitation of air permeability, patentee uses Japanese standards and states that the air permeability of the base fabric for air bags is preferably 20 cc/cm²/sec or less, more preferably 10cc/cm² /sec or less, being the air flow rate through the base fabric measured when air is fed at a pressure of 0.2 kg/cm². The air bag produced using such a base fabric for air bags can be used as an air bag, for example, for a driver's seat, an air bag for a front passenger's seat, an air bag for a rear seat or an air bag for expansion from a position laterally of an occupant of a seat (column 4, lines 31-39), and thus it is not explicitly stated using Applicant's terminology. However, given that Moriwaki et al. meet each and every chemical and structural requirement set forth in the claims, then it must meet the property limitations of air permeability, being less than about 0.5 cfm under

Art Unit: 1771

124 Pa pressure at about 25 ° C, that depend from said requirements. In other words, it is reasonable to presume that the invention of Moriwaki et al. would inherently anticipate the physical properties of the present invention, since both inventions are comprised of an airbag fabric comprised of a woven polyamide substrate adhered or coated to a polyurethane film, wherein the film has a thickness of less than .4 mils; the fabrics are coated/adhered/laminated to the polyurethane layer by the same methods; both employ a woven polyamide fabric wherein the yarns have a linear density of 200 to 500 denier, and the fabric has a cover factor of 1700-2500.

Furthermore, as no other structural or chemical features are claimed which may distinguish the present invention from that of the Moriwaki et al. invention, the presently claimed physical properties of air permeability is deemed to be inherent to the invention of Moriwaki et al. The burden is upon Applicant to prove otherwise. Note *In re Fitzgerald* 205 USPQ 495. Without a showing that evidences a difference between the prior art and the present invention, anticipation is proper.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 2001/0046823A1 to Sogi et al. teach all the limitations sought by Applicant's claims except for the fact that the polymeric coating employed by Sogi et al. is silicon based.
- USPN 6,291,040 to Moriwaki et al. is a divisional of the Moriwaki et al. reference applied above.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 703-305-0291. The examiner can normally be reached on M-F 7:00am to 4:00 pm.

Art Unit: 1771

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-873-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Ms. Arti Singh
Patent Examiner
Art Unit 1771

ars
February 26, 2003